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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,944	01/22/2002	Russell A. Houser	13513-006001	1973

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RUSSELL A. HOUSER  
ADVANCED CATHETER ENGINEERING, INC.  
1787 VERDITE STREET  
LIVERMORE, CA 94550

EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/050,944

Applicant(s)

HOUSER ET AL.

Examiner

Hau V Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13, 15-21, 25-36 is/are pending in the application.
- 4a) Of the above claim(s) 26-29 and 31-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13, 15-21, 25, 30, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Acknowledgment*

1. The amendment filed on 7/7/2004 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 13, 15-21, 25, 30 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Julien (6,267,402).**

Julien in figure 3, discloses a ski or snowboard having superelastic components (100), which configured and positioned with respect to the ski to provide an elastic response of the ski to a deflection. The superelastic component comprises at least one outwardly extending flexible outside edge (100), which is made of superelastic to provide superior edge holding ability and to be immune to rust and corrosion (as shown in figure 3). The superelastic component also positioned at either or both of the front of the housing and the rear of the housing in a functionally continuous manner between the front of the housing and the rear of the housing. Julien in figure 3, fails to show the superelastic component also positioned at either or both of the front of the housing and

the rear of the housing in a functionally noncontinuous manner between the front of the housing and the rear of the housing.

Julien in figure 1, teaches superelastic components (32, 34), which is in a functionally noncontinuous manner between the front of the housing and the rear of the housing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the superelastic component of Julien in figure 3 with the superelastic components in a functionally noncontinuous manner as taught by figure 1 of Julien in order to improve maneuvering of the ski along a curve.

Regarding claims 15-16, Julien in figure 5 discloses the ski having a superelastic component (95), which is positioned at a bottom surface of the ski. Wherein the bottom surface of the ski is configured to be in contact with a ski surface. The superelastic has a curvature between opposite outside edges.

Regarding claims 17 and 25, Julien in figure 6 discloses a superelastic component (110) having a flat surface between opposite outside edges. The superelastic component attaches to a bottom surface of the housing at a position between the opposite outside edges of the housing.

Regarding claim 18, Julien discloses the superelastic component, which is removably mounted to the ski (col. 4, lines 40-45).

Regarding claim 19, Julien discloses the superelastic component, which is positioned at least partially within the ski (as shown in figure 1).

Regarding claims 20-21, Julien in figure 3, discloses superelastic components (100), which are positioned along each longitudinal edge of the ski that can be

considered two parallel outwardly extending flexible outside edges. The superelastic members extend collinear along at least a portion of the length of the ski.

Regarding claim 30, Julien discloses the superelastic component comprising nitinol.

Regarding claim 35, Julien in figure 3 discloses a ski (45) comprising a housing and one or more superelastic components (100) extending outwardly and downwardly from the housing. The superelastic being positioned on opposite edges of the ski and extending outwardly beyond the housing, wherein the superelastic components deflect in response to an application of a force to one or more of the superelastic components. The one or more positioned at either or both of the front of the housing and the rear of the housing in a functionally continuous manner between the front of the housing and the rear of the housing. Julien in figure 3, fails to show the superelastic component also positioned at either or both of the front of the housing and the rear of the housing in a functionally noncontinuous manner between the front of the housing and the rear of the housing.

Julien in figure 1, teaches superelastic components (32, 34), which is in a functionally noncontinuous manner between the front of the housing and the rear of the housing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the superelastic component of Julien in figure 3 with the superelastic components in a functionally noncontinuous manner as taught by figure 1 of Julien in order to improve maneuvering of the ski along a curve.

Regarding claim 36, Julien discloses the superelastic component comprising nitinol.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 13, 15-21, 25, 30 and 35-36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hau Phan*  
*9/2/04*  
**HAU PHAN**  
**PATENT EXAMINER**

Hau V Phan  
Examiner  
Art Unit 3618